

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**BOBBY LEE ROBERTSON
ADC #121746**

PLAINTIFF

V. NO. 4:20-cv-01171-KGB-ERE

DEXTER PAYNE, *et al.*

DEFENDANTS

ORDER

Pending before the Court is Plaintiff Bobby Lee Robertson's motion for sanctions under Federal Rule of Civil Procedure 11.¹ *Doc. 115*. Defendants have responded to Mr. Robertson's motion and it is ripe for review. *Doc. 117*.

In his latest motion, Mr. Robertson again argues that the Court erred in denying his motion for summary judgment² and also contends that defense

¹ Pursuant to Rule 11, when an attorney signs and presents a pleading to the Court, the attorney certifies that "after an inquiry reasonable under the circumstances," that: (1) the pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and that (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information. "[T]he standard under Rule 11 is whether the attorney's conduct, 'viewed objectively, manifests either intentional or reckless disregard of the attorney's duties to the court.'" *Clark v. United Parcel Serv., Inc.*, 460 F.3d 1004, 1010 (8th Cir. 2006) (quoting *Perkins v. Spivey*, 911 F.2d 22, 36 (8th Cir. 1990)).

² Mr. Robertson has filed other motions challenging the Court's ruling denying his motion for summary judgment. Currently pending before Judge Baker are: (1) Mr. Robertson's motion for reconsideration of Judge Baker's Order adopting this Court's Partial Recommendation; and (2) Mr. Robertson's appeal of that Order. *Docs. 106, 111*.

counsel violated Rule 11 by submitting papers, including the declaration of Warden James Gibson (*Doc. 78-2*), that Mr. Robertson considers frivolous. Mr. Robertson's arguments are rooted in the fact that the documentary evidence submitted in support of his motion for summary judgment conflicts with Defendants' evidence submitted in opposing the motion. An evidentiary dispute provides no basis for Rule 11 sanctions. Additionally, Mr. Robertson has presented nothing to suggest that defense counsel did anything that would even arguably support Rule 11 sanctions.

IT IS THEREFORE ORDERED THAT Mr. Robertson's motion for sanctions (*Doc. 115*) is DENIED.

Dated this 28th day of June, 2022.


UNITED STATES MAGISTRATE JUDGE